

A Guide To Miners' Rights and Responsibilities Under the Federal Mine Safety and Health Act of 1977



U.S. Department of Labor
Mine Safety and Health Administration

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Miners' Rights
and Responsibilities
Under the Federal
Mine Safety and
Health Act of 1977**

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PREFACE

The Federal Mine Safety and Health Act of 1977 (referred to in this booklet as "the Act") gives individual **miners** the following rights:

- The right to have a representative of the miners accompany Federal inspectors during inspections at a mine.
- The right to obtain an inspection of a mine where there are reasonable grounds to believe that an imminent danger, or a violation of the Act or a safety or health standard, exists.
- The right to pay during certain periods of time when a mine or a part of a mine has been closed because of a withdrawal order.
- The right to be protected from discrimination based on the exercise of rights given by this Act.
- The right to receive safety and health training.
- The right to be informed of, and to participate in, enforcement and legal proceedings under the Act.

In addition, Miners' **representatives** also have specific rights under the Act to those rights given to individual miners. Also, applicants for mine work have the right not to be discriminated against in hiring because they had previously exercised rights given them by the Act.

This booklet summarizes the rights and responsibilities of miners, their representatives and applicants for mine work under the Act. This booklet must not, however, be considered an "official" statement of the law and should not be used as a source for legal interpretations of the Act. Some of the rights and responsibilities of miners described in this booklet may involve interpretations of

the act by the Mine Safety and Health Administration and could be modified by subsequent court decisions.

If you, as a miner, representative of miners, or job applicant, have general or specific questions about your rights under the Act, please contact the nearest MSHA office. A listing of district offices appears in the last section of this booklet.

The Act gives miners and their representatives many rights because Congress wanted to encourage them to take an active, responsible role in matters of mine safety and health. To find out about new proposed and final MSHA regulations, contact your miners' representative or the nearest MSHA office. MSHA sends copies of all new regulations to all known miners' representatives. A good safety and health program depends on the active participation and interest of everyone at the worksite. If you and your fellow miners take advantage of these rights, you can help decrease workplace deaths, injuries, and illnesses.

NOTE

The Act is found in the U.S. Code, Code of Federal Regulations, Title 30 -- Mineral Resources. The specific sections of the Act referring to the rights of miners and their representatives are headlined.

There are time limits on many of the rights described in this guide. Those time limits **must** be met or one risks losing the rights. The time limits are set in bold type.

LEGAL RIGHTS OF MINERS

The Act defines a “**miner**” as any person working in a mine. Therefore, all persons working in a mine are “miners,” and may exercise the rights given them by the Act. Supervisors who may not normally perform the actual physical mining activities but who work in a mine are also “miners” and have rights as “miners.”

The Act gives certain rights to a “**representative of miners**,” which is a person who has been chosen by two or more miners to represent the miners in safety and health matters at their mine. Additionally, the Act provides that applicants for mining jobs cannot be denied a job because they have previously exercised rights given them by the Act.

The first portion of this booklet discusses the most important rights which the Act gives to miners, representatives of miners, and applicants for employment. Protection Against Discrimination: Section 105(c)

A miner who uses any of the rights the Act gives to him or her cannot be discriminated against for doing so. It is illegal for a miner to be fired, transferred to a lower paying job, not hired, harassed, or otherwise lose job benefits for:

- Filing or making a complaint under the Act of an alleged danger or safety or health violation.
- Instituting, testifying, or assisting in any proceeding conducted under the Act.
- Being a subject of medical evaluations leading to a possible transfer to another job location.

- Being withdrawn from the mine for not having the mandatory safety and health training.

Congress intended that the Act be broadly interpreted and clearly meant to protect from discrimination any miners who in good faith refuse to work in conditions that they reasonably believe are not safe or healthful. Congress also intended the act to protect miners who refuse to comply if their employers order them to violate a safety and health standard.

Any discrimination claim filed by a miner, a representative of the miner on his or her behalf or on behalf of others, or a job applicant should be promptly filed with MSHA listing the details--names, dates, places, times, events, etc.--of the discrimination. If the claim is not filed **within 60 days** of the act of discrimination, MSHA may not be able to pursue it unless the miner, representative, or applicant can show a good reason why it should be considered. MSHA district, sub-district, or field office staff will answer questions and provide the form used to file a complaint. (Addresses and phone numbers of

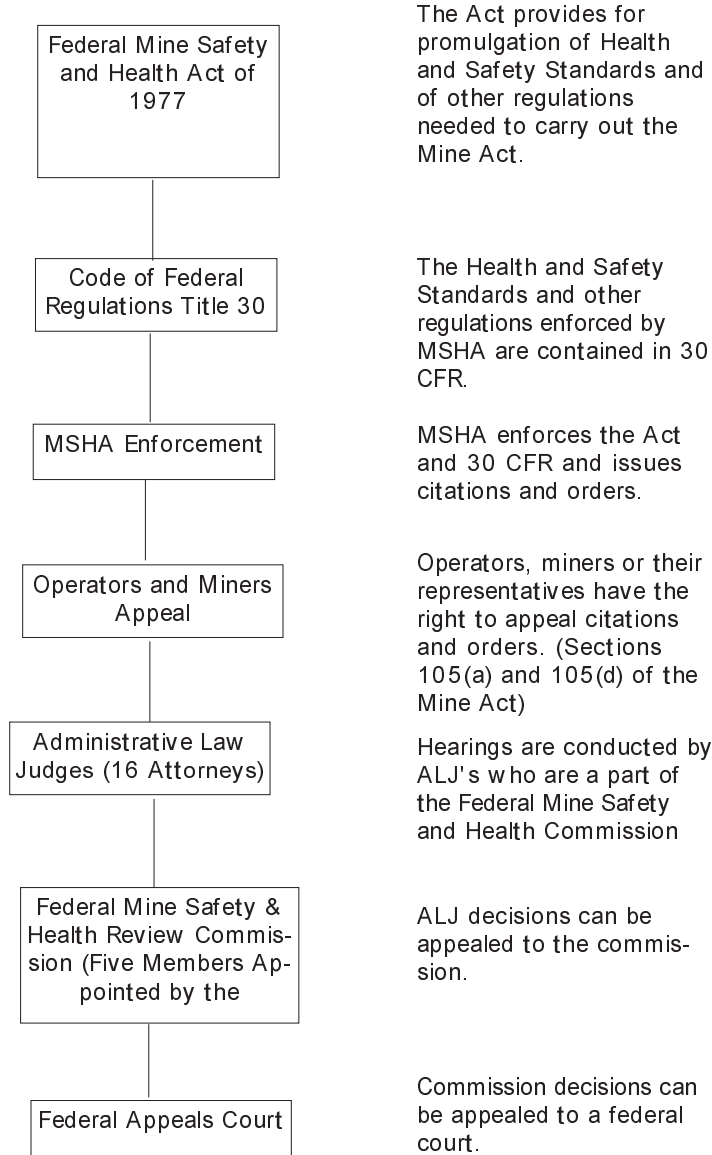
Claims where a person has been discharged for engaging in actions protected under the Act are eligible for the additional protection of temporary reinstatement. Under this procedure, the claim of the discharged miner will be examined for a preliminary determination of its potential merit or nonfrivolous nature. If the claim is determined to be nonfrivolous, MSHA's attorney will request that the Federal Mine Safety and

Health Review Commission order temporary reinstatement of the miner or, if necessary, a temporary assignment of the miner to a comparable job at the regular rate of pay until there is a final decision on the merits of the complaint.

After MSHA has completely investigated the complaint and if it determines that the miner has been discriminated against, MSHA's attorneys will file a complaint on the miner's behalf with the Federal Mine Safety and Health Review Commission requesting that the Commission order appropriate action. Depending on the facts of the particular case, MSHA might request the miner's reinstatement to his or her old job, back pay, restoration of seniority rights, transfer, and/or any other actions which would be proper to correct the discrimination.

If MSHA has investigated the miner's complaint and believes that the miner has not been discriminated against, MSHA will tell the miner of its decision. The miner may pursue the complaint without MSHA's assistance by filing the complaint with the Commission **within 30 days** after being told by MSHA that it found no discrimination. If the Commission should agree with the miner, it shall order payment of all reasonable costs and expenses, including attorney's fees,

If a miner believes he or she has been discriminated against on the basis of race, religion, sex, national origin or age, or some other reason not covered by the Act, the miner should contact the appropriate Federal or State agency to seek assistance.



Enforcement of the 1977 Act

This diagram illustrates how the Federal Mine Safety and Health Act of 1977 is enforced. The diagram depicts MSHA enforcement of both the provisions of the Act and of Title 30, Code of Federal Regulations. It also shows that miners and their representatives may appeal citations and orders issued by MSHA inspectors.

ENFORCEMENT OF THE ACT

Participating in Federal Inspections: Section 103(f)

The Act gives representatives of miners an opportunity to participate in Federal mine inspections. Congress believed that miners, with their knowledge of the individual worksite, can provide the inspector with a great deal of useful information. Also, by watching an inspection, miners will better understand the Act's safety and health requirements. The Act allows the representative to participate in the inspection of the mine, and in conferences before and after the inspection.

Representatives of miners have the right to accompany Federal inspectors during inspections involving enforcement of safety and health standards. On the other hand, the right of participation does not include technical consultations, equipment demonstrations, discussions on research, or anything else not directly involving the enforcement of safety and health requirements. The right of participation does not normally include MSHA's investigations of alleged discrimination of possible civil or criminal violations in the Act.

A **representative of miners** who is also an employee of the operator is entitled not only to participate in the inspections, but also to suffer no loss of pay while participating. If the MSHA inspector decides that more people familiar with the mine or specific area or problems are needed, the inspector may allow both the operator and the miners to have an equal number of additional representatives. However, only one representative of miners who is employed by the operator will be paid for accompanying the inspector. But, if two or more inspectors are at the mine at any single time and

are not traveling together in the mine, then it is MSHA's position that one representative of the miners is entitled to travel with each inspector or separate group of inspectors and to suffer no loss of pay. If two or more inspectors are together conducting a single inspection in the same section or area of a mine, then only one representative may accompany those inspectors and suffer no loss of pay.

MSHA recommends that miners' representatives be available on every shift. The MSHA inspector will not be able to wait while the representative of miners is called back to the mine.

If a mine does not have a representative of miners, the miners may select a representative to accompany the inspector on a particular inspection. If the miners decide not to select a representative or if a representative is not available, the inspector will consult with a reasonable number of miners about health and safety matters at the mine.

Requesting Federal Inspections: In General and Under Section 103(g)

At any time any person may, and is encouraged to, notify MSHA of any violation of the Act or safety or health standards, or of an imminent danger. Notice may be given by telephone, letter or word of mouth to any MSHA inspector or office. If circumstances warrant, MSHA will then inspect the mine to see whether or not the violation or danger actually exists.

The representative of the miners, or a miner when there is no representative, who has requested an inspection or notified an inspector in writing of a violation or an imminent danger will receive a written determination from MSHA if a decision

is made not to conduct the requested inspection or if no violation or imminent danger is found to exist. In certain circumstances the representative or the miner is also afforded a right to an informal review of those negative decisions.

General Notice or Notification: Section 103(g)

It is important to remember that there is a difference between a general notice to MSHA (which may be written or given orally) and a notification made under section 103(g) of the Act which must be written and which requires some definite response by MSHA.

An MSHA Inspection is Made: Section 103(g)

When the notice of violation or imminent danger is received, an inspection will be made as soon as possible by MSHA to see if the violation or danger actually exists, unless it is clear from the facts stated in the notice that the condition described would not be a violation or imminent danger. If the notice states that a violation of the Act or a safety or health standard exists, a copy of the written notice, with the names of the representative or miner and other named miners deleted, will be given to the operator before or at the time of the inspection. If the notice states that an imminent danger exists, the operator will be told immediately of the danger but not of the identity of the representative or miner giving the notice, or of any other named miner. If the inspector finds that a violation or imminent danger exists, a citation or withdrawal order will be issued.

No Inspection is Made or No Violation or Imminent Danger is Cited: Section 103(g)

If it is determined that no inspection should be made, or if, after the inspection, it is determined that a violation or imminent danger did not exist, the representative or miner who gave the section 103(g) notice will be given a written statement by MSHA of the reasons for the determination.

Notification Prior to an Inspection:
103(g)(2)

**Compensation of Miners Idled by
Withdrawal Orders: Section 111**

Miners who are idled because of withdrawal orders issued under the Act are

In addition, before any inspection is to begin or after the inspection has begun, a representative of miners or a miner, if there is no representative, may notify the inspector on the mine property, in writing, of any violation or imminent danger that the representative or miner has reason to believe exists. If the inspector finds that a violation or imminent danger exists, a citation or withdrawal order will be issued. If the notice was given in writing and if the inspector finds that no violation or imminent dangers exists and therefore does not issue a citation or withdrawal order, the representative or miner may request an informal review by the MSHA district manager of the inspector's decision. The request for informal review must be given to the district manager **within 10 days** of the inspector's decision and the representative or miner may request a meeting with the district manager to discuss the matter. After reviewing the inspector's decision and the views of the representative or miner, the district manager will give the representa-

entitled to compensation. Miners working on the shift when the withdrawal order is issued, if idled by the withdrawal order, are entitled to full regular pay for the time lost, but only for the balance of their shift. If the order is not terminated before the next shift, all miners on the next shift who are idled by the order must be paid at their regular rate of pay for the time they are idled, up to four hours.

If miners are ordered withdrawn from a mine or part of a mine because the operator does not comply with any health or safety standard, all miners who are idled because of the order will be paid for lost time at their regular rate of pay for the time they are idled, up to one week.

If an operator does not comply with a withdrawal order issued under the Act, all miners who were kept working in the area to which the order applied are entitled to double pay for the time they worked while the withdrawal order was in effect. However, those miners working to correct the condition that resulted in the withdrawal order are not working in violation of the order and are, therefore, not entitled to double pay.

Possible Imminent Danger, Lack of Technology to Correct Violations: Section 107(b)

Miners or their representatives who believe they are entitled to compensation, but have not received it, may file a complaint with the Federal Mine Safety and Health Review Commission within 90 days after the idle period began. The Commission's address appears at the end of this booklet.

Whenever a Federal inspector determines that a mine or an area of a mine has dangerous conditions which cannot be corrected using existing technology and that there is no reason to believe an imminent danger will not occur, the inspector will issue a notice to the operator describing the area where these conditions exist. A copy of this notice will be given to the representative of miners at the mine.

MSHA may then, if appropriate, conduct a further investigation into the matter and the representative of miners may present information relating to the notice during the investigation. Following the investigation MSHA will conduct a public hearing if any interested person requests one. After the investigation and public hearing is completed, MSHA will then either cancel the notice or issue an order withdrawing miners, except those working to correct the condition or causes described in the order, from the area of the mine closed by the order.

Once miners are withdrawn from the affected area, they may not reenter until after a public hearing at which all interested persons, including miners and their representatives, may present their views and MSHA decides that the hazardous conditions no longer exist.

Contesting Enforcement Actions: Section 105(d)

Any miner or representative of miners who has contested an enforcement action will be given an opportunity by

Any miner or representative of miners has **30 days** to challenge any order issued, modified, or terminated by a Federal inspector for a violation of a health or safety standard, or to challenge the reasonableness of the length of time set

the Federal Mine Safety and Health Review Commission for a hearing before one of the Commission's Administrative Law Judges. After the hearing, the Commission's judge will issue an order either affirming, modifying, or terminating the inspector's citation or order, or will direct other appropriate action.

The Commission's rules allow miners or their representatives an opportunity to be a party to or to testify in any enforcement action contested by the operator of the mine. The Commission's rules also prohibit any judge from disclosing to an operator the name of any miner who is expected to testify or be called as a witness to any proceeding before the Commission until two days before the hearing. The judge shall not, except in extraordinary circumstances, divulge to the operator the name of a miner who is an informant. In addition, miners or their representatives have the right to a copy of MSHA's Office of Assessments' initial review of a citation or order, to submit additional evidence, and to request and be present at a conference to review the citation.

Requesting Review of Imminent Danger Orders: Section 107(e)

Seeking Commission Review of Administrative Law Judge Decisions: Section 113(d)

Any representative of miners who has been notified that an imminent danger withdrawal order is issued, modified, or terminated has **30 days** after the date of notification to ask the Commission to reinstate, modify, or vacate the order. The Commission will provide an opportunity for a hearing and will issue a decision either vacating, terminating, affirming, or modifying the order.

Judicial Review—U.S. Circuit Court of Appeals: Section 106(a)

Miners and representatives of miners,

The Federal Mine Safety and Health Review Commission employs Administrative Law Judges, called "ALJ's," who hear evidence and make decisions on most issues about enforcement of the Act. Miners and representatives of miners adversely affected by the ALJ's decision may request a review of the decision by the five Commissioners. (The Commission's address is in the back of this booklet.) The request, in the form of a petition, must be filed with the Commission within **30 days** after the decision is issued. The Commission may or may not decide to review the ALJ's decision. If the decision is not reviewed, it becomes fi-

who have been adversely affected by a decision of the Federal Mine Safety and Health Review Commission in a case in which they were a party, have the right to a review of the decision before the U.S. Circuit Court of Appeals for the circuit in which the violation of the Act is alleged to have occurred or the U. S. Circuit Court of Appeals for the District of Columbia.

Review is obtained by filing a written petition with the proper circuit court within **30 days** after the date of the Commission's decision, requesting that the decision be modified or set aside.

SAFETY AND HEALTH TRAINING

Miners' Training: Section 115

All miners* must receive safety and health training under applicable programs of a training plan developed by operators and approved by MSHA.

New miners with no **underground** mining experience must receive at least 40 hours of training if they are going to work underground. The training must include approximately 8 hours of training in the actual work environment as well as instruction, where appropriate, in the following areas:

- Introduction to the work environment
- **Legal rights of miners and representatives of miners under the Act**
- Use of self--rescue and respiratory devices
- Entering and leaving the mine, transportation, communications
- Hazard recognition
- Mine maps, escapeways, emergency evacuation, barricading
- Health
- Emergency procedures
- Cleanup, rock dusting
- Roof or ground control plans
- Ventilation plans
- Electrical hazards
- First aid
- Mine gases
- Explosives
- The health and safety aspects of the job to which the new miner will be assigned

*Congress has prohibited enforcement by MSHA of this training provision as it affects miners employed in shell dredging, sand, gravel, surface stone, surface clay, colloidal phosphate, and surface limestone mining operations. The limitation has been in effect since October 1, 1979, and has been extended each fiscal year.

- Such other courses as may be required by MSHA based on circumstances and conditions at the mine

New surface miners with no surface experience must receive at least 24 hours of training including, where appropriate:

- Introduction to the work environment
- Rights of miners and representatives of miners under the Act
- Self-rescue and respiratory devices
- Transportation controls and communication systems
- Hazard recognition
- Escape and evacuation procedures, firewarning and firefighting
- Explosives
- Electrical hazards
- Health
- First aid
- Ground control, working in areas of highwalls, water hazards, pits and spoilbanks, illumination and night work
- The health and safety aspects of the job to which the new miner will be assigned
- Such other courses as may be required by MSHA based on circumstances and conditions at the mine

Ideally the training at surface mines is to be completed before the miner begins work. However, if the miner receives eight hours of training before beginning work, including introduction to the work environment, hazard recognition, and health and safety aspects of the miner's assigned job, MSHA may allow up to 16 hours of training to be given within the first 60 days of employment. Training for underground miners must be completed before the miner goes to work.

A miner is considered an experienced miner if he or she has (a) received new miner training within the previous 12 months, or (b) has received acceptable state training within the previous 12 months, or (c) has worked in the appropriate category of mining for at least 12 of the last 36 months, or (d) was working in that category of mining as of October 13, 1978.

Experienced underground miners newly employed at an underground mine must receive training, where appropriate, in:

- Introduction to the work environment
- Mandatory health and safety standards
- Authority and responsibility of supervisors and miners' representatives
- Entering and leaving the mine, transportation, communications
- Mine maps, escapeways, emergency evacuation, barricading
- Roof or ground control and ventilation plans
- Hazard recognition
- Such other courses as may be required by MSHA based on circumstances and conditions at the mine

Experienced surface miners newly employed at a surface mine must receive training, where appropriate, in:

- Introduction to the work environment
- Mandatory health and safety standards
- Authority and responsibility of supervisors and miners' representatives
- Transportation controls and communication systems
- Emergency evacuation, including firewarning and firefighting

- Ground controls including highwalls, water hazards, banks, illumination and night work
- Hazard recognition
- Such other courses as may be required by MSHA based on circumstances and conditions at the mine

All miners must also receive at least eight hours of refresher training at least once each 12 months.

A miner who has experience working at a surface mine and begins working at an underground mine, or vice versa, is considered, for training purposes, a new inexperienced miner, and is trained as such with emphasis on training in subject areas the miner has not had previously. The number of hours of training may vary depending on the needs of the miner being trained.

Any miner who is assigned to do a new job and has had no work experience doing that job within the year must receive training in the safety and health aspects and safety operating procedures of that job before doing it. This task training is also required for supervisors who perform nonsupervisory tasks.

A portion of any training required for inexperienced miners and those assigned to a new job must include training as closely related as possible to the work the miner will be doing.

Miners must be paid at their normal rate of pay while being trained. New miners must be paid at their starting wage when taking the new miner training.

If the required training is given somewhere other than the normal place of work, miners must also be compensated for the additional costs they may incur in

attending the training sessions. All required training must be provided during normal working hours.

Each time a miner completes a training program, the miner shall be given a copy of the certification as proof of having received that training program. For example, if a miner takes new miner training, upon completion of the areas or courses constituting that program the miner is entitled to a copy of the training certificate. If that miner is later assigned a new task and takes required new task training, the miner is entitled to a copy of the training certificate for that program. Miners leaving the operator's employ are entitled to another copy of all their health and safety training certificates for programs completed within the previous two years. At the present time there is considerable litigation on the issue of whether a laid-off miner can lose recall rights should he or she allow training certification to lapse. Miners should consult with their union and operator to further determine the status of this issue.

The training regulations specify that the miners' representative must receive a copy of the mine's training plan two weeks before it is sent to MSHA. The miners or their representatives have the right to submit written comments on the training plan directly to the district manager. The representatives must also be offered an opportunity to be involved in any revisions to the plan, and may appeal the MSHA district manager's decision on the training plan to the Administrator for Coal Mine Safety and Health or the Administrator for Metal and Nonmetal Mine Safety and Health, as appropriate, 4015 Wilson Boulevard, Arlington, Virginia 22203, **within 30 days** of notification of the district manager's decision.

Lack of Training—Right to Wages, No Discrimination: Section 104(g)

If a miner is ordered withdrawn from a mine for not having the necessary safety and health training, the miner cannot be fired or otherwise discriminated against and must not suffer a loss of pay because of the withdrawal order. The miner will continue to be paid for as long as it takes to get the required safety and health training and until he or she returns to a regular mining job.

HEALTH PROTECTION

Exposure to Toxic Materials or Harmful Physical Agents: Section 101(a)

In addition to rights contained in the Act itself, MSHA may issue standards and regulations in the future which may give miners other rights. For example, the Act states that safety or health standards must be issued dealing with toxic materials such as mine dusts and gases and with other harmful factors, called physical agents, which include noise, heat and radiation. These standards may require, where appropriate, that medical examinations be made available to miners who might have been exposed to these hazards. The operator will make available a free examination to the miner.

Presently MSHA has not passed any standards for exposure to hazardous materials, however, these standards are scheduled for promulgation.

Toxic Substances and Hazardous Physical Agents and Equipment Studies: Section 501(a)(11)

Representatives of miners may request MSHA or the Department of Health and Human Services to study and conduct research, experiments, and demonstrations to determine whether any substance normally found in a mine is toxic in the concentrations usually found, or whether any physical agents or equipment found or used in a mine may have hazardous effects.

The request must give the reason why the study, research, experiment, or demonstration is needed. The result of any study, research, experiment, or demonstration will be given to both the operator and the miners as soon as possible.

**Underground Coal Miners' Chest X--
Rays: Sections 203(a) and (c)**

Every miner who begins work in an underground coal mine for the first time shall be given the opportunity for a chest x--ray as soon as possible after beginning work and again three years later, if he or she is still a coal miner. If the second chest x--ray shows evidence of the development of black lung, the miner shall be given an additional chest x--ray two years later, if he or she still is a working coal miner. Every miner working in an underground coal mine shall have the opportunity for a chest x--ray at least once every five years, or earlier if the Secretary of Health and Human Services (HHS) so requires.

Coal mine operators must cooperate with the Secretary of HHS in making x--ray examinations available. Coal miners are not responsible for the payment of any fees for examinations or tests required by the Act. The results of the readings of the x--ray film shall, at the miner's request, be submitted to the miner's physician.

The Secretary of Labor shall give the results of the examination and tests to the miner and advise the miner, if appropriate, of his or her transfer rights under this Act.

**Black Lung Transfer Rights: Section
203(b)**

Any underground coal miner who, in the judgment of the Secretary of HHS, shows evidence of the development of black lung, shall be given an option of transferring from his or her position to another position in any area of the coal mine having concentrations of respirable dust of 1.0 milligrams per cubic meter of air or less. If no area in the mine has concentrations of respirable dust of less than 1.0 milligrams per cubic meter of

air, the miner shall be given the option of transferring to a position in the mine where the concentration is the lowest obtainable below 2.0 milligrams per cubic meter of air.

Any coal miner who is transferred shall be paid at no less than the regular rate of pay the miner received immediately before his or her transfer.

Black Lung Benefits: Title IV (30 USC 938)

Coal miners who are totally disabled by black lung disease due to their coal mine employment are entitled to compensation and medical benefits.

Title IV of the Act has been amended by the Black Lung Benefits Reform Act of 1981. MSHA does not administer this part of the Act, it is administered by the Employment Standard Administration (ESA). For information about black lung benefits, write:

Employment Standard Administration (ESA)
Division of Coal Mine Workers'
Compensation
U.S. Department of Labor
Washington, D.C. 20210
(202) 219--6692

Operators are prohibited from discharging or otherwise discriminating against coal miners employed by them because they are suffering from black lung but are not totally disabled. A miner or miners' representative may apply to the ESA **within 90 days** of any discharge or other act of discrimination for a review of the situation. The applications may also be filed with MSHA and a copy of the application should be sent to the person alleged to have committed the discriminatory act.

NEW AND REVISED STANDARDS

Copies of Proposed Standards or Regulations: Section 101(e)

Copies of all proposed safety and health standards or regulations are sent by MSHA to each operator and the representatives of miners at each mine at the time of publication in the **Federal Register**. The operator must post a copy of the proposed standards or regulations on the bulletin board at the mine. Miners or their representatives may comment or object to the proposed standards or regulations and may request a hearing to state their views orally by notifying the contact person identified in the proposed regulations.

Challenging Standards: Section 101(d) Participating in the Modification of

A person, including a miner or representative of miners, who may be adversely affected by a safety or health standard may file a petition challenging the standards **before 60 days** after the standard is published in final form in the **Federal Register**. The petition must be filed in either the U.S. Circuit Court of Appeals for the District of Columbia or the circuit where the miner or representative resides. However, the court will not consider, except for "good cause," any objection to the standards that

Safety Standards: Section 101(c)

Any representative of miners may ask MSHA to modify the application of any safety standard, if the alternative method proposed will guarantee at least the same measure of protection given by the safety standard, or if enforcement of the standard itself will cause a reduction in safety at the mine.

MSHA shall notify the representative of miners when it receives a petition for

a modification from the operator or any other person. The representative will have an opportunity to present his or her views on the proposed modification in writing. In addition, the representative may request a hearing to present his or her views concerning a proposed modification. These hearings are conducted by Department of Labor Administrative Law Judges. These decisions are appealable to the Assistant Secretary for Mine Safety and Health.

A copy of MSHA's final decision on the modification shall be sent to the representative of miners.

ACCESS TO INFORMATION

General: Section 103(c) and (h)

Miners or their representatives can look at or get copies from MSHA or the Secretary of Health and Human Services of most records, information, reports, findings, citations, notices, orders, and decisions that the Act calls for. Records of each miner's exposure to potentially toxic materials and harmful physical agents are available to the miner or former miner from the operator.

Posting Documents on Mine Bulletin Board: Section 109

Any order, citation, notice, or decision required by the Act to be given to an operator shall be delivered to the mine office and a copy must be immediately posted on the mine bulletin board by the operator or his or her agent.

In addition, MSHA shall immediately mail, or otherwise deliver, a copy of the order, citation, notice, or decision to the representative of miners.

Records of Examinations and Reports for Underground Coal Mines: Section 303(d), (f), (g), and (w)

Coal miners and their representatives have the right to inspect the recorded results of the following examinations, tests, and reports made in underground coal mines:

- Pre-shift examinations—Section 303(d)
- Weekly examinations for hazardous conditions—Section 303(f)
- Weekly ventilation examinations—Section 303(g), and
- Daily reports of the mine foremen and assistant mine foremen—Section 303(w)

Notification Proposing Civil Penalty: Section 105(a)

Whenever an operator receives a notice of proposed civil penalties for a safety or health violation cited by Federal inspectors, a copy of the notice shall also be sent by MSHA to the representative of miners.

Notification Proposing Civil Penalty for Failures to Correct Violations: Section 105(b)

When MSHA believes that an operator has failed to correct a violation within the period permitted for its correction and determines that a civil penalty is to be issued under Section 110(b) for the operator's failure to correct, MSHA shall notify the operator of the proposed civil penalty and send a copy of the notification to the representative of miners.

Operator's Records of Accidents and Accident Investigations: Section 103(d)

The operator is required to investigate all accidents to determine the cause and the means to prevent a recurrence. The operator's records of accidents and accident investigations are open for inspection by "interested persons," which includes miners and representatives of miners.

Monitoring and Recording of Exposure to Toxic Materials or Harmful Physical Agents: Section 103(c)

When regulations are issued which deal with miners' exposure to potentially toxic materials or harmful physical agents, and which deal with the operators' monitoring or measuring of such materials or agents, the regulations shall also provide the miners and their representatives with an opportunity to observe the monitoring or measuring and to have access to all monitoring or measuring records. Each miner or former miner will have access to his or her own exposure records. The operator must promptly notify any miner of his or her

overexposure and the action being taken to correct the condition.

Underground Coal Mine Maps: Section 312(b)

Coal miners or their representatives may inspect maps of the underground coal mine at which the miners work.

Roof Control Plans for Underground Coal Mines: Section 302(a)

A copy of the approved roof control plan for every underground coal mine shall be available for inspection by miners employed in the mine and by their representatives.

Records of Electrical Examinations and Maps of Stationary Electrical Installations for Underground Coal Mines: Section 305(e) and (g)

Records of electrical equipment examinations made for an underground coal mine, maps showing the locations of all stationary electrical installations, and other required data shall be available for inspection by miners employed at that mine.

LEGAL RESPONSIBILITIES OF MINERS

Smoking -- Prohibited: Section 110(g)

During the period of October 26, 1990 to December 7, 1992, there were 28 fatalities where smoking or the use of smoking materials resulted in methane explosions. Miners who violate safety standards by smoking or by carrying smoking materials, matches, or lighters into underground coal mines, gassy underground metal or nonmetal mines, or areas of mines where smoking is prohibited may have to pay a fine of up to \$250 for each violation.

By regulation, other nonsmoking areas of underground coal mines include areas around oil houses, explosives magazines or other surface areas where smoking could cause a fire or explosion. In surface coal mines, miners may not smoke or use an open flame any place where it might cause a fire or explosion.

Smoking is forbidden in areas of uranium mines where radon daughter exposure measurements are required to be taken. Smoking is also forbidden within 25 feet of where explosives or detonators are stored in noncoal mines.

False Statements and False Representations: Section 110(f)

The Act states that any person, including a miner, who knowingly makes a false statement either orally or in writing or who makes a false certification in an application, record, report, plan, training certificate, or any other document required to be kept or filed with MSHA shall be

subject to a fine of up to \$250,000 or imprisoned for up to five years or both.*

An example of a violation of Section 110(f) in an underground coal mine would be to intentionally record incorrect results of the pre-shift ventilation examination required by Section 303(d) of the Act. The mine examiner must record the results of the examination in a book, which in turn must be kept by the operator. If false entries are knowingly made in the book, whoever made the entries could be liable under this section of the law.

An example of a false statement in a metal or nonmetal mine might involve regulations that presently require all employees to be instructed at least once each calendar year on fire alarm signals and procedures to be followed in case of fire or other emergency. The records of the instruction are to be kept for two years. If false statements about the instruction are intentionally made in the records, the person responsible could be liable for a fine, imprisonment, or both.

* Criminal fines for violation under the Mine Act are subject to the increased penalty provisions by the Federal Comprehensive Crime Control Act, 18 U.S.C. 3571

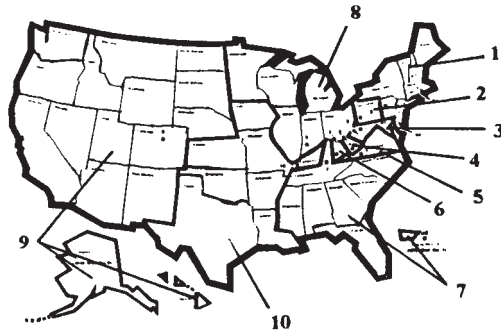
CONCLUSION

The Act provides for protection of miners' safety and health by giving the mine operators the main responsibility for preventing unsafe and unhealthful conditions in their mines. However, it was the intention of Congress in passing this law, and MSHA in implementing it, to involve the miners in mine safety and health much more than ever before. To ensure that miners are involved, the Act specifies many rights of miners which have been discussed in this booklet. For additional mine safety and health information contact the person in charge of safety and health at your mine or the nearest MSHA office. A listing of various MSHA offices appears in the next section of this booklet.

We urge you to use these rights and to accept the responsibilities of miners. A mine's safety and health program is only as effective as the hazard awareness it instills in everyone. Remember, it is your life and health that MSHA is trying to protect. Get involved. Help us and help yourself!

ADDITIONAL INFORMATION

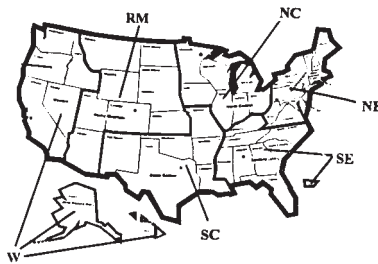
Coal Mine Safety and Health District Offices FY 1993



District Offices

- | | |
|----------------------|----------------------|
| 1. Wilkes--Barre, PA | 6. Pikeville, KY |
| 2. Pittsburgh, PA | 7. Barbourville, KY |
| 3. Morgantown, WV | 8. Vincennes, IN |
| 4. Mount Hope, WV | 9. Denver, CO |
| 5. Norton, VA | 10. Madisonville, KY |

Metal and Nonmetal Mine Safety and Health District Offices



FY 1993

District Offices

- | | |
|----------------|----------------|
| Northeastern | South Central |
| Mars, PA | Dallas, TX |
| Southeastern | Rocky Mountain |
| Birmingham, AL | Denver, CO |
| North Central | Western |
| Duluth, MN | Vacaville, CA |

**COAL MINE SAFETY AND HEALTH
DISTRICT OFFICES**

District 1

MSHA District Office
Penn Place, Room 3128
20 N. Pennsylvania Avenue
Wilkes--Barre, PA 18701
(717) 826-6321

District 2

MSHA District Office
R. R. 1, Box 736
Hunker, PA 15639
(412) 925-5150

District 3

MSHA District Office
5012 Mountaineer Mall
Morgantown, WV 26505
(304) 291-4277

District 4

MSHA District Office
100 Bluestone Road
Mount Hope, WV 25880
(304) 877-3900

District 5

MSHA District Office
P.O. Box 560
Norton, VA 24273
(703) 679--0230

District 6

MSHA District Office
219 Ratliff Creek Road
Pikeville, KY 41501
(606) 432-0943

District 7

MSHA District Office
HC 66, Box 1762
Barbourville, KY 40906
(606) 546-5123

District 8

MSHA District Office
P.O. Box 418
Vincennes, IN 47591
(812) 882--7617

District 9

MSHA District Office
P.O. Box 25367, DFC
Denver, CO 80225
(303) 231--5462

District 10

MSHA District Office
100 YMCA Drive
Madisonville, KY 42431
(502) 821-4180

**METAL AND NONMETAL MINE SAFETY
AND HEALTH DISTRICT OFFICES****Northeastern District**

MSHA District Office
230 Executive Drive
Mars, PA 16046
(412) 772-2339

Southeastern District

MSHA District Office
135 Gemini Circle, Suite 212
Birmingham, AL 35209
(205) 290-7294

North Central District

MSHA District Office
515 W. 1st Street, #228
Duluth, MN 55802
(218) 720-5448

South Central District

MSHA District Office
1100 Commerce Street
Room 4C50
Dallas, TX 75242
(214) 767-8401

Rocky Mountain District

MSHA District Office
P.O. Box 25367
Denver, CO 80225
(303) 231-5465

Western District

MSHA District Office
3333 Vaca Valley Parkway, Suite 600
Vacaville, CA 95688
(707) 447-9844

ASSESSMENTS OFFICES

MSHA Office of Assessments
4015 Wilson Boulevard
Room 918
Arlington, VA 22203
(703) 235-1484

MSHA Office of Assessments
PO Box 25367
Denver, CO 80225
(303) 231-5423

MSHA Office of Assessments
Penn Place, Room 2121
20 No. Pennsylvania Avenue
Wilkes-Barre, PA 18701
(717) 826-6431

**FEDERAL MINE SAFETY AND HEALTH
REVIEW COMMISSION**

1730 K Street, N.W.
6th Floor
Washington, D.C. 20006
(202) 653-5633

MSHA HEADQUARTERS OFFICE

Ballston Towers #3
4015 Wilson Boulevard
Arlington, VA 22203
(703) 235-1385

To contact your local MSHA office,
please consult your local telephone direc-
tory under U.S. Government, Depart-
ment of Labor.

**SAFETY AND HEALTH INFORMATION
CONTACTS**

Title and Name Phone No.

Miners' Representative

Safety Committeeman

Company Instructor

Company Safety Director

MSHA Inspector

MSHA Inspection Supervisor

MSHA District Manager
